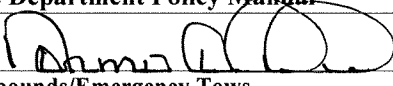


**Wichita Police Department Policy Manual**Approved by: **Policy 404 – Impounds/Emergency Tows**

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Maintained by:
Special Operations

Issue/Rev.: R 03-01-2012

AUTHORIZATION FOR IMMEDIATE IMPOUNDMENT:

404.01 Members of the Department who are authorized to impound vehicles may immediately do so in the following situations:

- A. When any vehicle upon a street, highway, bridge, or in any tunnel, is so disabled or unattended so as to constitute an obstruction to traffic and the person or persons in charge of the vehicle cannot safely operate the vehicle or are unable to provide for its custody or removal to a lawfully secure location; or [Section 11.97.010(a)(1) of the City Code]
- B. When any vehicle is parked illegally in such a manner as to constitute a hazard or obstruction to the safe movement of traffic; or [11.97.010(a)(2) of the City Code]
- C. When the operator of any vehicle is arrested and taken into custody by the police department and such vehicle would thereby be left unattended and create a hazard or obstruction to the safe movement of traffic. The owner, operator or person in charge of the vehicle will be given the option to leave the vehicle if legally parked and not a traffic hazard or release the vehicle to a passenger or have the Officer contact a person to retrieve the vehicle if said person can respond to take possession of the vehicle within a reasonable amount of time.

When making a determination concerning “reasonable amount of time,” the following factors should be taken into consideration: call load, amount of time it took to notify the third party and the traffic pattern for that location (i.e. Kellogg).

If the vehicle is legally parked and the operator requests the vehicle be left at the location of the stop, the Officer shall properly document all information on the vehicle and the operator’s statements of such in his/her report. A supervisor shall approve this action. A car is not legally parked if:

1. Residence: The owner/occupant of the residence is not home to authorize the arrestee to leave his/her vehicle parked in the driveway;
2. Business: The business is not open, and the lot is signed for private parking only, or has no trespassing signs, or if there is an affidavit on file with the police indicating the owner doesn’t want cars parked there during closed hours.

If the vehicle is released to a third party at the scene, the Department member shall include in his/her incident report all vehicle information and all the information on the person taking custody of the vehicle. To release the vehicle to a third party, the following circumstances must all be met:

3. The vehicle is mechanically safe, not stolen or evidence of any crime;
 4. The person taking control of the vehicle has a valid driver’s license and is not intoxicated;
 5. There are no other circumstances that would prevent the release of the vehicle.
- D. When any vehicle is found being driven on the streets and is not in proper or safe condition to be driven and cannot be removed safely to a lawfully secured location by the owner or operator; or [11.97.010(a)(4) of the City Code]
 - E. Accident cases where the driver is injured and is unable to provide for its custody or removal; or [11.97.010(a)(5) of the City Code]
 - F. When a vehicle is parked on a snow emergency route or is otherwise in violation of Chapter 11.39 of this code entitled “Snow Emergency”, and amendments thereof; or [11.97.010(a) (6) of the City Code]
 - G. When a vehicle is illegally parked in any area also designated by signs as a tow zone and to which a uniform traffic citation has been affixed to said vehicle or presented to the owner or operator of said vehicle; or [11.97.010(a)(7) of the City Code]
 - H. When any vehicle is reported or determined to be stolen and is recovered and can not be released to the owner; or [11.97.010(a)(8) of the City Code]
 - I. When any vehicle is subject to seizure as evidence in a criminal prosecution; or [11.97.010(a)(9) of the City Code]

NONEMERGENCY (NUISANCE/HEALTH) IMPOUNDS

404.02 Vehicles may be towed pursuant to the City of Wichita Nuisance Abatement policy in the following situations:

- A. Abandoned vehicles parked on the street, which possess a vehicle identification number (VIN). In the event a vehicle with a VIN is left parked on the street and is deemed to be abandoned (i.e. – no tag, wheels removed, not moved for a period of 48 hours, etc.) the vehicle will be tagged with a green impound sticker. After a 48-hour waiting period, the officer may return to impound the vehicle. {K.S.A. 8-1102(a)(1)}.
- B. Abandoned vehicles parked on the street that do not possess a vehicle identification number (VIN) such as a trailer full of trash, car shells, lawn mower shells, etc. In the event that a vehicle without a VIN is parked on the street, officers are to call Public Works between the hours of 0800-1700 hrs., Monday through Friday. Public Works personnel will handle the tow procedure – officers should tag the item/vehicle and cut a police case regarding this matter.
- C. Vehicles parked on residential/private property deemed to be a health concern. In the event that a vehicle is parked in a private yard and deemed to be a health issue (front, back, or side yard), officers have the option of placing a red tow sticker and notification door hanger immediately before calling the Health Department or simply calling the Health Department to handle the issue in its entirety.
- D. Private Property Tows – Members of the Wichita Police Department will not tow or arrange for the tow of vehicles from private property (except as necessary in criminal cases). Citizens requesting private tows shall be referred to Wichita City Ordinance 11.99.030.

PRIOR TO IMPOUNDING VEHICLES:

404.03 Prior to impounding a vehicle under any circumstances other than those described in 404.01, the member of the Department shall mark the vehicle, place a completed tow-sticker with the member's name, ID #, and date and time the sticker was applied on the driver's side of its windshield, then return to its location after at least forty-eight (48) hours have passed, at which time the vehicle may be impounded [K.S.A. 8-1102 (a)(1)].

404.04 Department members shall run the auto tag and VIN number to verify that neither the vehicle nor tag has been stolen. Members shall take any auto tag which is not registered to the vehicle or registered owner of the vehicle and shall turn it in to the Property and Evidence Section, and such action shall be noted in the Department member's report.

PROPERTY IN IMPOUNDED VEHICLES:

404.05 Inventory searches shall be conducted upon all vehicles that are to be impounded. Inventory procedures serve to protect an owner's property while it is in the custody of the police, to insure against claims of lost, stolen, or vandalized property, and to guard members of the Police Department from danger.

404.06 When a vehicle is to be impounded, all containers, including locked containers such as suitcases or briefcases, must be opened and the contents inventoried.

404.07 Items found in an impounded vehicle, which are considered to be evidence, fruits of a crime or instruments of a crime shall be turned in to the Property and Evidence Section, and such action shall be noted in the Department member's report. All other property shall remain in the vehicle.

DOCUMENTATION:

404.08 Prior to impoundment, the member of the Department responsible for the tow shall complete an Impounded Vehicle Receipt, supplied by the tow-truck driver.

- A. Fill out the entire top half of the form, including the names and addresses of the driver [if any] of the vehicle at the time of impoundment, and the registered owner.
- B. Ensure that all property which is left in the vehicle is listed in the "Personal Property in Impounded Vehicle" section.
- C. Have the wrecker driver fill in the name and address of his/her wrecker service in the blank which follows the words, "The undersigned assumes liability on behalf of," near the bottom of the form, and then have him/her sign and date the form at the bottom of the page.
- D. Turn in the original copy with his/her Department mail at end-of-shift. Members of the Records Bureau will forward a copy of this document to the Property and Evidence Section, and a copy to the Investigations Division if the accompanying Incident Report is routed to any of its sections.
- E. Give the first copy to the wrecker driver.
- F. Give the second copy to the impounded vehicle's driver, if present [if not place the copy in the vehicle].

404.09 After having any vehicle impounded, the member shall immediately enter the case providing Case Desk with the impound information and complete and submit the Incident Report and Impound Receipt with his/her mail at end-of-shift.

HOLDS:

- 404.10 A hold will not be placed on a vehicle unless it is necessary to keep the vehicle for physical evidence, or is to be processed for physical evidence or the true owner cannot be identified. The Case Desk shall be notified of such a hold when the case is cut, the hold information should be included in the case synopsis.
- 404.11 Members of the Department placing a hold on an impounded vehicle shall:
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- A. Advise the wrecker driver of the hold;
 - B. Tell the vehicle's driver/owner that he/she cannot regain custody without a release from the WPD section to which the case is assigned. Tell him/her to contact the applicable section/outside agency to request a release;
 - C. List on the Impounded Vehicle Receipt for whom (the particular WPD section) the vehicle is to be held;
 - D. Clearly mark the Incident Report to denote that a hold has been placed upon the vehicle.
 - E. Notify the appropriate Investigations Section Commander via email of the hold.
- 404.12 All holds shall be cleared as soon as possible by the supervisor of the section or detective, to whom the case is assigned, for which the vehicle is being held. Owner/Agents should be notified as soon as possible after a hold has been released so they can retrieve their vehicle. Owners/agents of vehicles that have been held shall be given a completed Receipt for Property [WPD Form 322-400] to present to wrecker services when they retrieve their vehicles or a completed Receipt For Property form will be completed by a detective and faxed to the wrecker service with a copy emailed to the Property and Evidence Section and a copy placed in the case file.

RELEASES:

- 404.13 An owner who wishes to claim an impounded vehicle must go directly to the wrecker service which towed it, where he/she may exercise any of the following options:
- A. Display proper identification and proof of current registration of the vehicle, pay tow-in and storage charges, and retrieve the vehicle.
 - B. Request a due-process hearing, post cash equal to the towing and storage charges incurred by his/her vehicle, and retrieve the vehicle, upon proof of ownership. Responsibility for impounding and storage fees will not be assessed until a due-process hearing has been held.
 - C. Request a due-process hearing and leave the vehicle in storage pending the hearing. Storage fees will continue to be charged to the vehicle pending the due process hearing.

DUE-PROCESS HEARINGS:

- 404.14 Owners or persons entitled to the lawful custody of impounded motor vehicles who wish to contest the validity of the motor vehicle tow may request a hearing for such purpose by notifying the Secretary of Judges Chambers, 455 N. Main, Wichita, Ks 67202 or telephoning the Judge's Chambers 268-4600. Persons requesting a impound hearing are required to contact the Judges Chambers on the 3rd floor of 455 N. Main to schedule a hearing and sign necessary court paperwork. The request shall state the grounds upon which the person requesting the hearing believes the impoundment invalid or unjustified. Absent exigent circumstances, such request must be made no later than five business days from impoundment of the vehicle or receipt of the notice of impoundment, whichever is later.
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- A. Impound hearings are to be held Monday-Thursday at 201 S. Greenwood. Requests for impound hearings must be made within 5 days of the impoundment of the vehicle by the owner of the vehicle.

EMERGENCY TOWS

- 404.15 Any tow company wishing to be placed on the Emergency Tow List for the Wichita Police Department must apply annually through Licensing at the City of Wichita. The Emergency Tow List will be maintained on the MCT's and/or via a hard copy provided to officers.
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- 404.16 If a vehicle needs to be towed, but impounding is not required, and the owner/operator of the vehicle is contacted, the following procedure will be followed:
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- A. If the owner/operator requests a towing provider that is not on the City's Emergency Tow List, the officer may offer to notify SPIDER who will make the contact for them. The towing provider must:
 - 1. Be on scene within 45 minutes of notification by SPIDER.
 - 2. Remove any debris from the street prior to leaving the scene.
 - 3. Notify the on-scene officer if they cannot comply with items #1 and #2 listed above. The owner/operator must then select a tow company from the City's Emergency Tow list.
 - B. If the owner/operator requests a towing provider from the City's Emergency Tow List, the officer shall notify SPIDER who will contact the selected tow provider.

- C. If the citizen refuses to make a decision regarding a tow provider, the officer will notify SPIDER who will contact the next provider on the Emergency Tow rotation list.

404.17 In all instances of Emergency Tows, the officer will document the name of the tow provider in their police report.

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